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Letter dated 16 August 2006 from the Permanent Representative of Mongolia to the United Nations addressed to the Secretary-General

I have the honour to forward herewith a draft report prepared by the governmental working group on the implementation of the law of Mongolia on its nuclear-weapon-free status and the resolution of the State Great Hural (Parliament) (see annex). The enclosed draft was prepared for consideration by the State Great Hural and is to be submitted to the relevant standing committee thereof at a later date.

I should be grateful if you would have this letter and its annex circulated as a document of the General Assembly, under item 87 of the provisional agenda.

(*Signed*) Baatar **Choisuren**
Ambassador
Permanent Representative

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Annex to the letter dated 16 August 2006 from the Permanent Representative of Mongolia to the United Nations addressed to the Secretary-General

Information on the implementation of the law of Mongolia on its nuclear-weapon-free status and resolution of the State Great Hural

Brief history of Mongolia

Mongolia is located in North-East Asia, between China and Russia. It is a landlocked country bordering on the east and north with Russia, and on the south and west with China. Mongolia's territory covers an area of 1,564,100 sq. km that is larger than the territories of U.K, France, Germany and Italy taken together. As of January 2006, the population of Mongolia stands at 2.5 million. Since regaining its independence in 1921 and until the 1990 democratic revolution, Mongolia lived under communist rule, accepting economic assistance and political patronage from the Soviet Union. Disintegration of the socialist system allowed Mongolia to make essential political and socio-economic changes. The principles of democratic system were reflected in the new Constitution of Mongolia, which was adopted in January 1992. These changes also allowed Mongolia to determine effectively its national interest and foreign policy priorities.

Preamble

On February 3, 2000 the State Great Hural (parliament) of Mongolia adopted the Law of Mongolia on its nuclear-weapon-free status (hereinafter referred to as law on NWFS) as well as Resolution # 19 of the State Great Hural on measures to be taken in connection with the adoption of the law (hereinafter referred to as Hural resolution). It has been almost 6 years since their adoption and as a result of above there is a need to appraise the implementation of this legislation.

Mongolia pursues a foreign policy based on its national interests, and aimed at ensuring national security, strengthening peace and international security as well as contributing to the objectives of nuclear non-proliferation. Therefore, it is crucial to fully implement the provisions of the above legislation.

Appraising implementation of the present legislation would not only contribute to ensuring territorial integrity of Mongolia, inviolability of the state frontiers, public health and environmental security, but it would also significantly facilitate institutionalization of the NWFS at the international level. It is also significant in informing relevant international organizations on the implementation of the legislation, in cooperating with them as well as in institutionalizing Mongolia's single state nuclear-weapon-free zone.

The aim of this information is to appraise the implementation of the legislation, make the necessary conclusions and report on it to the relevant Mongolian authorities, to the United Nations, to the International Atomic Energy Agency (IAEA), other relevant international organizations as well as the neighbouring countries.

The Constitution of Mongolia states that "the territorial integrity and frontiers of Mongolia shall be inviolable (Article 4.1)", that "the land, its subsoil, forests, water, fauna and flora and other natural resources shall be subject to national sovereignty and State protection (Article 6.1)", that "the duty of the State is to secure the country's independence and ensure national security and public order (Article 11.1)" and that "the State shall be responsible to the citizens for the creation of economic, social, legal and other guarantees ensuring human rights and freedoms, for the prevention of violations of human rights and freedoms and restoration of infringed rights (Article 19.1)".

The National Security Concept of Mongolia stipulates that national security is ensured by social, political, diplomatic and legal means, unilaterally or through international cooperation. Thus, the NWFS is also one of the main means of ensuring the national security.

The working group to appraise the implementation of the legislation was established by the decision of the Minister for Foreign Affairs on May 1, 2006. It consisted of representatives of the Ministry of Foreign Affairs, Ministry of Justice and Home Affairs, Ministry of Fuel and Energy, Ministry of Nature and Environment, Ministry of Defense, Nuclear Energy Commission /NEC/, State Specialized Inspection Agency, National Emergency Management Agency, General Intelligence Department, Customs General Administration and the "Blue Banner" non-governmental organization /NGO/.

The working group met three times. While preparing the information, the working group did not inspect specifically any facility or vehicle which might be connected with nuclear resources or wastes; it made use of all the information provided by the relevant organizations.

State policy

Since the end of Cold War and normalization of relations between Russia and China, the external environment of Mongolia has radically improved, allowing it to reinforce the national security by political and legal means. It is developing good relations with the two neighbours as well as expanding rapidly its over-all foreign relations, which in its turn creates more favourable environment to further promote and strengthen its security.

Mongolia is pursuing balanced relationship in its policies towards them. Its foreign policy is based on political realism and non-alignment so long as it does not threaten its vital interests. This policy is prohibiting any country to use its territory against fundamental interests of other country. It found reflection in the National Security Concept of Mongolia and is in full conformity not only with the vital interests of Mongolia but also in the interests of neighbouring and other countries.

Within the framework of this policy, Mongolia declared in 1992 its territory a nuclear-weapon-free zone /NWFZ/. In order to institutionalize that status at the national level, the State Great Hural of Mongolia adopted in February 2000 the law on NWFS. The law reinforces the commitments of Mongolia undertaken by the Treaty on the non-proliferation of nuclear weapons /NPT/. Moreover, it also committed Mongolia to prohibit stationing or transporting nuclear weapon and its components,

transiting it or dumping nuclear weapons grade radioactive material or their dangerous wastes on the territory or in the vicinity of Mongolia.

Lately, Mongolia signed the International Convention for the Suppression of Acts of Nuclear Terrorism and undertook a commitment under the UN Security Council Resolution 1540 to take effective preventive measures that would deny nuclear weapon or its components to terrorist groups.

Implementation of State policy

Mongolia's NWFS depends to a great extent on the policies of the neighbouring States, on their support and cooperation. Under the treaties on friendly relations and cooperation that Mongolia concluded with Russia and China in 1993 and 1994 respectively, both of its neighbours have committed to respect Mongolia's policy of maintaining its territory free of nuclear-weapons. Moreover, under the Agreement on cooperation in the use of atomic energy for peaceful purposes, concluded with the Russian Federation, the parties have pointed out on cooperation in future use of atomic energy as well as in ensuring nuclear and radiation safety, safe disposal and dumping of radioactive wastes.

Also the treaties and conventions that Mongolia concluded with China and Russia in the fields of environmental protection and disaster prevention as well as on frontier matters contain concrete provisions that provide the legal basis for cooperation in the respective fields.

Implementation of specific legal provisions

- Article 3.1.1 of the law NWFS defines "nuclear weapon" as any explosive device that is capable of releasing nuclear energy in an uncontrollable manner and that can be used for hostile purposes. Article 3.1.2 of the law defines "nuclear-weapon-free status" as a legal status of being free from nuclear weapons as well as from any threat or danger of nuclear weapon. In broader terms turning Mongolia into a nuclear-weapon-free zone (NWFZ) is important in promoting regional peace and security. Therefore, on 25 September 1992, President of Mongolia Mr. P. Ochirbat stated that "in the view of contributing to disarmament and enhance confidence in the region and world, Mongolia declares its territory as a NWFZ". In 14 years since the declaration, Mongolia is faithfully fulfilling its obligations under the NPT and the Additional Protocol. It is also working to ensure that its territory would be free of nuclear weapons at all time.

The international community fully supports Mongolia's nuclear-weapon-free policy. Thus the General Assembly of the United Nations in its resolutions 53/77 D, 55/33 S, 57/67 and 59/73, in 1998, 2000, 2002 and 2004 respectively, called on all Members of the United Nations to cooperate with Mongolia in enhancing and ensuring its nuclear-weapon-free status.

- Article 4.1 of the law states that an individual, legal person or any foreign State shall be prohibited on the territory of Mongolia from committing, initiating or participating in the acts or activities related to nuclear weapons. Since Mongolia is already committed in this respect under the NPT, the law does not deal with this issue.

- Mongolia has not concluded any agreement with any other country in violation of Article 4.1.2 of the law that prohibits stationing or transporting nuclear weapons by any means.

- Article 4.1.3 prohibits testing or using of nuclear weapons. Mongolia has not done any nuclear testing, nor will it allow others to test on its territory.

- It is impossible to verify implementation of Article 4.1.4 of the law because the relevant authorities and specialists of Mongolia have little information on or experience in dealing with special nuclear weapon-grade radioactive material and wastes. Also it is technically unable to distinguish nuclear weapons special grade radioactive material from other similar material. Therefore, there is no information available on whether any individual, legal person or any foreign State has committed, initiated or participated in the acts or activities relating to transiting or dumping nuclear weapons grade radioactive material or nuclear waste on the territory of Mongolia.

In accordance with Mongolian law of 2000 on the prohibition of import and cross-border transport of dangerous wastes and their export, as defined in the Basel convention on the control of trans-boundary movements of dangerous waste and its disposal, dangerous wastes are wastes that negatively affect the health and genetics of humans and animals, produce diseases or pathologies in them and disturb the environmental balance. Implementation of this law needs both better trained personnel and as well as equipment.

- Article 4.2 of the law prohibits transportation through the territory of Mongolia of nuclear weapons, parts or components thereof, as well as of nuclear wastes or any other nuclear material designed or produced for weapons purposes. However, due to the lack of the necessary means as well as specialized and highly trained personnel, Mongolian authorities are unable to inspect all means of transport and goods crossing the State border or passing through Mongolian territory. According to par. 4 of Government resolution # 151 of 19 August 1998, the Customs General Administration has been assigned "to take measures to provide the permanently operating land ports of Buyant-Ukhaa (recently re-named Chinggis Khaan), Zamyn-Uud and Sukhbaatar with fixed and mobile radiation control equipments". However, these land ports have not yet been provided with the required equipment. The Customs General Administration installed fixed equipment to detect radioactive isotopes that could be hidden in luggages and other goods that only pass through auto-vehicle controls at land ports of Altanbulag, Selenge Aimag /2002/ and Tsagaannuur, Bayan-Ulgii Aimag /2005/. Other land ports do not have such fixed equipments. Therefore, it is necessary to install equipment to examine and detect radiation at the afore-mentioned international land ports as well as at railway and air cargo terminals as well as to train relevant customs personnel and border inspectors in this field.

Mongolian relevant authority has not cooperated specifically with the IAEA or other relevant organizations on personnel training and technical assistance in this particular area.

- Article 5.1 of the law states that the use of nuclear energy and technology shall be permitted only by the State administrative authority in charge of nuclear energy (i.e. by the Nuclear Energy Commission - NEC) and solely for peaceful purposes such as health care, mining, energy production and scientific research in accordance with the provisions of the international treaties to which

Mongolia is a party as well as in conformity with the norms and principles of international law. During the first drafting of the law, Mongolia received comments from the Legal Branch of the IAEA.

NEC was established by Government resolution # 389 of 27 July 1962. The Commission's main functions are to draw up and implement a policy on the development of nuclear research and technology, on the use of radiation sources and on ensuring radiation protection and safety. Bearing in mind the new developments since 1962, the NEC statute was revised in December 2001.

As to the use of nuclear energy and technology solely for peaceful purposes, the Mongolian People's Republic (official name of Mongolia before 1992 Constitution) ratified in 1987 the conventions on Early Notification of a Nuclear Accident and on Assistance in the Case of a Nuclear Accident or Radiological Emergency. When doing so it made a reservation which stated that it did not consider itself bound by the provisions of the conventions concerning the procedures of the settlement of disputes arising from the interpretation or application of the conventions, and that the consent of all the parties to the dispute was required for their submission to arbitration or to the International Court of Justice.

On the other hand, Mongolia's southern neighbour-the People' Republic of China- when ratifying these two conventions made reservations to the effect that it did not consider itself bound by the dispute settlement procedures and that in cases of gross negligence by individuals who caused the death, injury, loss or damage, provisions of the conventions would not apply to the People' Republic of China. Mongolian northern neighbour -the Russian Federation – also made a reservation to the effect that the consent of all parties in each individual case is required for the submission of any dispute to the arbitration or to the International Court of Justice.

These two conventions were negotiated and adopted immediately, just after the 1986 Chernobyl Atomic Station accident. The reservations which socialist countries used to make upon accession to international conventions do not any more fit to the current post-cold war realities of globalization. According to such reservations, if an accident occurs in our neighbouring country, Mongolia may submit the case to arbitration or the International Court of Justice only upon the consent of that neighbouring country.

- Implementation of Article 5.2 of the law that states that "for the purpose of implementing Article 5.1 of the present Law and banning the dumping or storage in the vicinity of the borders of Mongolia of nuclear material or waste that might directly or in the long run indirectly adversely affect the safety of the population and the environment, Mongolia shall cooperate with the IAEA, other appropriate international organizations and the States that have nuclear programs":

The conventions on Early Notification of a Nuclear Accident and on Assistance in the Case of a Nuclear Accident or Radiological Emergency envisage that States parties designate domestic authority to be in charge of regulating information transmission and information receipt as well as of requesting and rendering assistance in the case of nuclear accident, or release of radioactive substances through border of other countries and notify the IAEA and other States parties on the incident. In implementation of these provisions, Mongolia notified in 1987 the IAEA that the NEC is

the national authority that is in charge of the above matters. It also informed IAEA in April 2004 that the State Specialized Inspection Agency would be the body in charge of storage and safety of radiation sources.

The NEC regulates the activities envisaged in the Asia-Pacific regional treaty on cooperation of nuclear scientific and technological research, development and training, in agreements of the International Joint Institute for Nuclear Research /IJINR/ and in IAEA agreements.

IJINR, which is based in Dubna, the Russian Federation, was established in March 1955. It is an inter-governmental, scientific research organization of the States parties. Mongolia is one of the founders of this institute. Over the past 50 years, 81 Mongolian scientists worked in IJINR and obtained high qualifications in the areas of theoretical and practical nuclear physics, nuclear electronics, computing, software and applicable mathematics. These Mongolian scientists are working today in the private and public sectors, and in the areas of education and scientific research. There are currently 9 Mongolian scientists working in IJINR.

Mongolian-Russian Joint Declaration on Cooperation of 1991 states explicitly that two sides would cooperate in the field of environmental protection with a view to maintaining ecological security and preventing pollution of either country's territory. However, the working group on implementation believes that there is no clear mechanism of information sharing between the two neighbours in the event of a nuclear accident or loss of radioactive substances.

- The National Security Council is entrusted to coordinate the implementation of a single State policy concerning the prohibited and permitted activities pertaining to the Mongolia's NWFS under Article 6.1.1. In the last 6 years the Council has not taken any steps in this respect.

- Implementation of Article 6.1.2 of the law pertaining to "institutionalizing internationally Mongolia's NWFS":

Since 1992 Mongolia has been pursuing a policy to institutionalize internationally its NWFS. The international community supports Mongolia's above policy. Thus, since 1998 United Nations General Assembly every second year has been adopting resolutions calling on UN member States to cooperate with Mongolia in consolidating its status. In October 2000, the five nuclear-weapon States made a joint statement providing political nuclear security assurance to Mongolia in connection with the status. This marked a significant first step in institutionalizing the status. Shortly thereafter, in September 2001, Mongolian experts, non-governmental experts of the five nuclear-weapon States as well as representatives of the United Nations met in Sapporo, Japan to address the issue of Mongolia's status. During the meeting the experts stated that in order to institutionalize its status, Mongolia needed to conclude a multilateral agreement on institutionalization of the status either with its two neighboring countries or with all the five nuclear-weapon States. Following-up on Sapporo recommendations, Mongolia submitted to its neighbors some proposals that could be included in the draft agreement.

- In order to implement the commitment contained in Article 6.1.3 on "taking an active part in the activities of the appropriate international organizations, exchanging information on the prohibited and permitted activities in Mongolia and providing information to national organizations", Mongolia submitted three declarations to the IAEA in accordance with the Additional Protocol. The declarations contained information on radioactive sources storage and dumping facility "Isotope Center" of the NEC, Mardai uranium mine where uranium ore was mined and the activities, location and capacity of businesses that have over the recent years been engaged in exploration of uranium deposits. Within the IAEA Technical Cooperation Program, the Ministry for Nature and Environment, the State Inspectorate for Radiology and the Special Control of the State Specialized Inspection Agency and the NEC have started to jointly implement project MON/9/005.

- Though in accordance with Article 6.2 of the law the competent authorities of Mongolia have the right to gather information, stop, detain and search any suspected aircraft, train, vehicle, individual or group of persons on its territory, there is no information available regarding these issues.

- Under Article 6.3 of the law, the Ministry of Foreign Affairs is entrusted with monitoring compliance with the present law and the international commitments assumed by Mongolia in connection with its NWFS. The Ministry has not fully monitored the implementation of the legislation.

- Article 6.4 of the law provides that non-governmental organizations or individuals may, within the mandate provided for by the legislation, exercise public oversight of the implementation of the law on NWFS and submit proposals thereon to the relevant State authority. In accordance with this Article the Blue Banner NGO was established in 2005 with the objective enable non-governmental entities exercise public oversight and submit proposals on NWFS to the relevant State authority. This organization was included on the working group to monitor implementation of the legislation and therefore it participated in it's on an equal basis with other members of the group. The Blue Banner also has the objectives to cooperate with NGOs and oversight authorities of neighbouring countries in ensuring non-dumping and non-transit of nuclear weapons grade radioactive material, nuclear waste and dangerous waste through Mongolia's territory and obtain ng information on the safety of nuclear facilities in border regions of the neighbouring countries.

- Specific measure was not undertaken by the relevant organization to ensure international verification of the implementation of the legislation in accordance with Article 7 of the law.

- As regards "liability for violation of the legislation on NWFS" covered by Article 8, other laws do not specifically provide any liability for illegal acts related to nuclear weapons.

However, some laws, in particular, the Criminal Code, Law on the Import, Cross-border Transportation and Export of Dangerous Waste, Law on Nature Protection, Law on Protection against Toxic Chemicals, Law on Radiation Protection and Safety provide for criminal and civil penalties for those who have carry out such acts as contamination of the environment with dangerous waste, transportation of dangerous wastes across State borders, contamination of the environment with toxic chemicals designated as chemical weapons and or wastes, transfer of toxic chemicals designated as

ner wastes, transfer of toxic chemicals designated as

chemical weapons to others, and violation of procedures for producing, exporting, importing, using, storing, transporting and dumping of radioactive sources.

- Article 9.1 of the Law states that if the vital interests of Mongolia are affected, the law may be amended or terminated". The law has not been amended.

Implementation of resolutions

One. Resolution # 19 of the State Great Hural of Mongolia on measures to be taken in connection with the adoption of the law on NWFS:

- With respect to operative para. 1.1, Mongolia has been cooperating with the United Nations Secretariat's Department of Disarmament Affairs (especially with its Asia-Pacific Regional Center), the Department of Economic and Social Affairs and the UNDP in implementation of General Assembly resolution 53/77 D of 1998 entitled "Mongolia's international security and nuclear-weapon-free status".

Mongolia has not yet specifically cooperated with IAEA to implement the General Assembly resolution or the Mongolian legislation. However, it has been receiving from IAEA assistance in the areas of agriculture, food, health, geology, mining, environment, education and science. Under IAEA Technical Cooperation Program, 47 projects were implemented in 1975-2005, while 7 projects are currently being implemented. During the past three decades Mongolia received technical cooperation assistance amounting to almost to $9,8 mln. Additionally, over 120 advisers and specialists have worked in Mongolia, and about 130 Mongolian experts have benefited from IAEA's short and long term fellowships.

Mongolia participated in the IAEA Model Project on "Upgrading Radiation Protection Infrastructure" (INT/9/143) in 1996-2000 and its follow-up projects RAS/9/026 and RAS/9/027 in 2001-2004, and successfully completed them. Another series of technical cooperation projects are currently in progress (in 2005-2006)[1].

[1] - "Strengthening National Regulatory Infrastructure for the Control of Radiation Sources"
- "Developing Technical Capabilities for the Protection of Health and Safety of Workers Exposed to Ionizing Radiation"
- "Strengthening Radiological Protection of Patients and Medical Exposure Control"
- "Establishment of National Capabilities for Response to a Radiological and Nuclear Emergency"
- "Education and Training in Support of Radiation Protection Infrastructure"

- As to operative para. 1.2, the Research Centre of Astronomy and Geophysics of the Mongolian Academy of Sciences has the primary responsibility to ensure normal functioning of the stations that are situated on the territory of Mongolia that intended to monitor nuclear weapons tests.[3] The principal use of mini array seismic station PS25 is to distinguish between an underground nuclear explosion and the earthquakes that occur around the globe. Infrasound station IS34 uses the infrasound database of International Data Centre (IDC) to locate and to distinguish between atmospheric explosions and man-made sound waves in the atmosphere. Radionuclide Station RN45 detects radioactive particles released from atmospheric nuclear explosions and vented from underground or under water explosions and thereby precisely detects nuclear tests.

- Pursuant to operative para. 1.3, the working group shall report for the first time to the relevant Standing Committee of the State Great Hural on the implementation of the law on NWFS, of the present resolution and other legislative acts adopted in conformity with them".

Two. United Nations General Assembly resolution 53/77D:

- Operative paragraph 3 of the resolution invited "Member States, including the five nuclear weapon States, to cooperate with Mongolia in taking the necessary measures to consolidate and strengthen Mongolia's independence, sovereignty and territorial integrity, the inviolability of its borders, its economic security, its ecological balance and its NWFS, as well as its independent foreign policy". In order to strengthen the NWFS, in September 2001 in Sapporo the UN Department of Disarmament Affairs, the non-governmental experts of the five nuclear weapon States and of Mongolia considered the issue of institutionalizing Mongolia's NWFS and recommended to Mongolia to conclude an agreement with its two neighbours or with all the five nuclear weapon States on providing Mongolia with legally binding security assurances. Accordingly, in spring of 2002 Mongolia presented elements of a possible agreement to the governments of the two neighbours and in July of that same year received a positive response in principle as well as their concrete suggestions with respect to the content of the agreement (Annex 6 shows international support that Mongolia's NWFS enjoys as well as its efforts to institutionalize the status).

- Operative paragraph 4 of the resolution appealed "to the member States of the Asia and Pacific region to support Mongolia's efforts to join the relevant regional security and economic arrangements". After the adoption of the above resolution Mongolia became member to the Asia Cooperation Dialogue and observer to the Shanghai Cooperation Organization SCO). Currently Mongolia is working to join the Asia-Pacific Economic Cooperation and the Asia-Europe Meeting as well as to become a full partner of ASEAN dialogue.

[3] Under Annex 1 to the Protocol to the Comprehensive Nuclear-Test-Ban Treaty of 1996, Mongolia established three stations based on 3 different technologies, namely mini array seismic PS25, infrasound station IS34 and radionuclide station RN45. The stations are located near Tavan Tolgoin Military training division based in Altanbulag soum (county) of Tuv aimag (province). Additionally, a relay building was built near Radio and Television 1.K relay station with the aim of better controlling the stations' functioning and receiving and transmitting information in real time. Research Centre of Astronomy and Geophysics of the Mongolian Academy of Sciences, in conjunction with French Environment Control and Research Department, is working to deploy this year a new noble gas SPALAX station in the relay building to measure transformations in radioactive substances' background.

In 1992 Mongolia has acceded to the Asia-Pacific regional treaty on nuclear science, technical research, development and training. In implementation of this treaty Mongolian experts participated in regional projects, consultations, seminars and trainings that were organized in 2000-2005. It is also participating in 18 regional projects that are currently underway (i.e. in 2005-2006).

Operative paragraph 5 of the resolution requested "the Secretary-General and relevant United Nations bodies to provide the necessary assistance to Mongolia, within existing resources, to take the necessary measures mentioned in paragraph 3 above". In implementation of this operative para., in 2002 the relevant UN bodies started to make a study on economic vulnerability and ecological security of Mongolia. In 2004 they have prepared a report that presents the views of Mongolian authorities and experts on these issues.

Operative paragraph 6 of the resolution requested "the Secretary General to report to the General Assembly at its fifty-fifth session on the implementation of the present resolution". The Secretary-General of the UN submitted reports to the General Assembly on this question in 2000, 2002 and 2004. The fourth report is currently being prepared for submission to the 61st session of the Assembly in September 2006.

Round-table meetings were organized by Mongolian civil society organizations in 2002 and 2004 to promote implementation of resolution 53/77 D and provisions of the Mongolian law and make recommendation aimed at full implementation of the provisions contained in the above documents. Thus for example the participants of the 2004 round-table meeting to the Ministry of Foreign Affairs and other relevant Mongolian organizations submitted four specific recommendations.

Three. United Nations Security Council Resolution 1540:

Resolution 1540 adopted by the Security Council on 28 April 2004 states that proliferation of nuclear, chemical and biological weapons and their means of delivery constitutes a threat to international peace and security and calls upon member States of the UN to refrain from providing any form of support to non-State actors that attempt to acquire and possess such weapons and means of their delivery.

In compliance with operative para. 4 of the resolution, on 13 May 2005 Mongolia presented its national report on the implementation of the resolution to the Committee 1540. The latter has not yet requested any additional information from Mongolia.

Conclusion

Since the adoption of the law on NWFS and Hural resolution, some provisions, in particular the provision of Article 4.2 of the law that states that "transportation through the territory of Mongolia of nuclear weapons, parts or components thereof, as well as of nuclear waste or any other nuclear material designed or produced for weapons purposes shall be prohibited" has not been implemented [illegible] Mongolia does not have nuclear [illegible] its

implementation. Furthermore customs and border inspection authorities have insufficient know-how and the needed equipment to fully monitor transportation (or smuggling) of nuclear weapons, parts or components thereof, nuclear waste or any other materials through its territory.

Recommendations

1. Accelerate the policy to institutionalize Mongolia's NWFS by concluding an appropriate agreement with the neighbours that was virtually halted in the second half of 2002. In order to do that draw up the revised draft agreement and present it to the governments of the two neighbours. If need be, ask professional advice from relevant IAEA bodies;

2. Negotiate with Russia and China on non-appliance to Mongolia of their declarations made upon ratifying the two 1986 conventions relating to nuclear accidents;

3. Work to obtain assistance from international organizations or countries that can provide modern equipment for detection of transportation through the territory of Mongolia of goods, means of transport of nuclear weapons, parts or components thereof or of nuclear wastes;

4. Train relevant customs and border inspectors to identify illegal transportation through the border of Mongolia of nuclear weapons, parts or components thereof as well as of nuclear waste or any other nuclear material designed or produced to be used for weapons purposes;

5. Create mobile laboratory to improve customs control at temporary and permanent ports by acquiring the necessary assistance from other States or international organizations;

6. Draw up a special plan and cooperate with IAEA, other organizations and UN members to acquire professional advice and training or retraining of personnel that are involved in implementing the national law and the two resolutions;

7. Report regularly on the implementation of the law, the resolution and other legislative acts adopted in conformity with them. Identify the most effective methodology of monitoring implementation of the law and resolutions, and present recommendations thereon to the Ministry of Foreign Affairs and the Standing Committee of the State Great Hural for their guidance. Monitor and prepare the second report on the implementation of the law and resolutions in the first quarter of 2008.

Attachments:

1. The law of Mongolia on its nuclear-weapon-free status
2. Resolution 19 of the State Great Hural on measures to be taken in connection with the adoption of the law of Mongolia on its nuclear-weapon-free status

3. Joint statement of the five nuclear-weapon States providing security assurance in connection with Mongolia's nuclear-weapon-free status
4. Declaration of the Government of Mongolia in connection with the joint statement of the five nuclear-weapon States
5. Declarations of other countries and international organizations

Attachment 1

Law of Mongolia on its nuclear-weapon-free status, adopted on 3 February 2000

CHAPTER ONE

General provisions

Article 1. Purpose of the Law

The purpose of the present Law is to regulate relations pertaining to the preservation of the territory of Mongolia in its entirety, including its air space, land, waters and the sub-soil free from nuclear weapons, which constitutes an important factor for ensuring Mongolia's security.

Article 2. Legislation on Mongolia's nuclear-weapon-free status

2.1 The legislation on Mongolia's nuclear-weapon-free status shall consist of the Constitution of Mongolia, the present Law and other legislative acts adopted in conformity with them.

2.2 In case an international treaty to which Mongolia is a party contains provisions different from those provided for in the present Law, the provisions of the international treaty shall prevail.

Article 3. Definitions

3.1. The definitions contained in the present Law shall have the following meaning:

3.1.1 . "nuclear weapon" means any explosive device that is capable of releasing nuclear energy in an uncontrollable manner and that can be used for hostile purposes;

3.1.2. "nuclear-weapon-free status" means a legal status of being free from nuclear weapons.

Article 4. Prohibitions resulting from the nuclear-weapon-free status

4.1 An individual, legal person or any foreign State shall be prohibited on the territory of Mongolia from committing, initiating or participating in the following acts or activities relating to nuclear weapons:

4.1.1 develop, manufacture or otherwise acquire, possess or have control over nuclear weapons;
4.1.2 station or transport nuclear weapons by any means;
4.1.3 test or use nuclear weapons;
4.1.4 dump or dispose nuclear weapons grade radioactive material or nuclear waste.

4.2 Transportation through the territory of Mongolia of nuclear weapons, parts or components thereof, as well as of nuclear waste or any other nuclear material designed or produced for weapons purposes shall be prohibited.

Article 5. Uses of nuclear energy and technology

5.1 The use of nuclear energy and technology shall be permitted only by the State administrative authority in charge of nuclear energy and solely for peaceful purposes such as health care, mining, energy production and scientific research in accordance with the provisions of the international treaties to which Mongolia is a party as well as in conformity with the norms and principles of international law.

5.2 For the purpose of implementing Article 5.1 of the present Law and banning the dumping or storage in the vicinity of the borders of Mongolia of nuclear material or waste that might directly or in the long run indirectly adversely affect the safety of the population and the environment, Mongolia shall cooperate with the International Atomic Energy Agency (IAEA), other appropriate international organizations and the States that have nuclear programs.

CHAPTER TWO

Verification

Article 6. National verification of the implementation of the legislation on the nuclear-weapon-free status

6.1 On the basis of the proposals of the central administrative authority in charge of foreign relations and of other organizations, the National Security Council of Mongolia shall, within its functions and competence, coordinate the following activities:

6.1.1 implementing of a single State policy concerning the prohibited and permitted activities pertaining to the nuclear-weapon-free status in Mongolia;
6.1.2 institutionalizing internationally Mongolia's nuclear-weapon-free status;
6.1.3 taking an active part in the activities of the appropriate international organizations, exchanging information on the prohibited and permitted activities in Mongolia and providing information to national organizations.

6.2 The competent authority of Mongolia shall have the right to gather information, stop, detain and search any suspected aircraft, train, vehicle, individual or group of persons.

6.3 The central administrative authority in charge of foreign relations shall be entrusted with monitoring the compliance with the present Law and the international commitments assumed by Mongolia in connection with the nuclear-weapon-free status.

6.4 Non-governmental organizations or individuals may, within the mandate provided for by the legislation, exercise public oversight of the implementation of the legislation on the nuclear-weapon-free status and submit proposals thereon to the relevant State authority.

Article 7. International verification on the implementation of the legislation on the nuclear-weapon-free status

7.1 Mongolia shall conduct international verification over the implementation of the present Law in cooperation with the relevant international organizations or by concluding special international agreements thereon.

CHAPTER THREE

Liability

Article 8. Liability for violation of the legislation on the nuclear-weapon-free status

8.1 An individual or legal person that violates Article 4 of the present Law shall be held liable in accordance with the Criminal Code.

8.2 The facility, equipment, material, raw material or means of transportation used for the activities prohibited by Article 4.1 of the present Law shall be expropriated by the State.

8.3 An individual or legal person that violates the present Law shall pay compensation for the damage caused to the interests of Mongolia as well as to the population, the environment and the properties in accordance with the relevant legislation of Mongolia or in conformity with the appropriate international treaty, the principles and norms of international law.

8.4 In case of violation or suspected violation of the present Law by a foreign State, Mongolia shall, within its international treaty obligations or norms and principles of international law, officially notify the State concerned of the violation or suspected violation, request explanation and peacefully resolve any question that may arise therefrom. If deemed necessary, the International Atomic Energy Agency (IAEA) and other relevant bodies could be asked for assistance. In case of a dispute of a legal mature, measures could be taken up to referring the matter to the relevant international court or arbitration.

Article 9. Amendment and termination of the Law

9.1 If the vital interests of Mongolia are affected, the present Law may be amended or terminated.

CHAIRMAN OF THE STATE
GREAT HURAL OF MONGOLIA

R. GONCHIGDORJ

Attachment 2

Resolution 19 of the State Great Hural of Mongolia on measures to be taken in connection with the adoption of the law on its nuclear-weapon-free status, adopted on 3 February 2000

In its foreign policy, Mongolia sets the goal of pursuing its national interests, developing friendly cooperation with all the countries of the world as well as actively contributing, to the extent possible, to the efforts of the international community to strengthen peace and security. It is also pursuing a policy of refraining from joining any military alliance or grouping, or allowing the use of its territory against any other State as well as banning the stationing on its territory of foreign troops and weapons, including nuclear and other weapons of mass destruction. With respect to its two neighbouring States, Mongolia is pursuing the policy of maintaining balanced and friendly relations and developing broad cooperation.

Mongolia consistently advocates disarmament and, on its part, is taking concrete steps to promote the goal of non-proliferation of nuclear weapons. Within the framework of this policy, in 1992 Mongolia declared its territory a nuclear-weapon-free zone and has since been pursuing the policy of and taking the measures aimed at institutionalizing and guaranteeing it. One of the results of such a policy has been the adoption by the United Nations General Assembly at it 53rd regular session on 4 December, 1998 of the resolution 53/77D entitled "Mongolia's international security and nuclear-weapon-free status".

Keeping Mongolia's territory free of nuclear weapons is fully in line with its policy aimed at strengthening its national security by political and diplomatic means.

Strengthening Mongolia's nuclear-weapon-free status at the State policy level, further clearer defining of the status and its observance would be important in strengthening mutual confidence and Mongolia's external security environment as well as in linking the country's national security to regional security and stability.

Mongolia's nuclear-weapon-free status represents a novel approach in the practice of international relations, which in its wider context could be considered as our country's concrete contribution to the policy and efforts of the international community aimed at strengthening the regime of non-proliferation of nuclear weapons.

Based on the all above and in connection with the adoption of the Law of Mongolia on nuclear-weapon-free status, the State Great Hural of Mongolia resolves:

1. To mandate the Government (R. Amarjargal) to take the following measures:

1) to actively cooperate with and acquire assistance from the relevant States, international organizations, including the International Atomic Energy Agency, in implementing the Law of Mongolia on the nuclear-weapon-free status and the United Nations General Assembly resolution entitled "Mongolia's international security and nuclear-weapon-free status";

2) to take the necessary measures to ensure normal functioning of the stations designed to monitor nuclear weapons tests, that are situated on the territory of Mongolia;

3) to report, as the case may be, to the Standing Committee on Security and Foreign Policy Affairs of the State Great Hural of Mongolia on the implementation of the Law of Mongolia on the nuclear-weapon-free status, of the present Resolution and other legislative acts adopted in conformity with them.

2. The present Resolution shall be implemented from the day of the entry into force of the Law of Mongolia on the nuclear-weapon-free status.

Attachment 3

Statement on security assurances in connection with Mongolia's nuclear-weapon-free status

France, the People's Republic of China, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America,

Welcoming the declaration by Mongolia of its nuclear-weapon-free status,

Taking into account Mongolia's status as a non-nuclear-weapon state party to the Treaty on the Non-Proliferation of Nuclear Weapons, as well as its unique geographic status,

Welcoming Mongolia's policies of developing peaceful, friendly and mutually beneficial relations with the States of the region and other States,

Confirm the following:

1. France, the People's Republic of China, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America reaffirm their commitment to Mongolia to cooperate in the implementation of UN General Assembly resolution 53/77D of December 4, 1998 with respect to Mongolia's Nuclear-Weapon-Free Status, in accordance with the principles of the Charter of the United Nations.

2. France, the People's Republic of China, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America reaffirm their commitment to seek immediate United Nations Security Council action to provide assistance to Mongolia, as a non-nuclear-weapon state party to the Treaty on the Non-Proliferation of Nuclear Weapons, in accordance with the provisions of UN Security Council resolution 984 of April 11, 1995, if Mongolia should become a victim of an act of aggression or an object of a threat of aggression in which nuclear weapons are used.

3. France, the People's Republic of China, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America reaffirm, in the case of Mongolia, their respective unilateral negative security assurances as stated in their declarations issued on 5 and 6 April 1995 and referred to in UN Security Council resolution 984 of April 11, 1995.

4. The People's Republic of China and the Russian Federation recall and confirm the legally-binding commitments undertaken by them with respect to Mongolia through the conclusion of bilateral treaties with Mongolia regarding these matters.

New York, 5 October 2000

Attachment 4

Statement of the Government of Mongolia

In 1992, in the emerging post-cold-war international environment, Mongolia declared its territory a nuclear-weapon-free zone. The aim of the initiative was not only to strengthen Mongolia's security in the new geopolitical and diplomatic means, but also to promote nuclear non-proliferation, stability and mutual trust in the region. The initiative of Mongolia was broadly supported by the international community. Thus the General Assembly, in support of the initiative, adopted on 4 December 1998 resolution 53/77D, entitled "Mongolia's international security and nuclear-weapon-free status". In implementation of the resolution, the Government of Mongolia has taken a number of concrete measures, including the adoption of legislation on Mongolia's nuclear-weapon-free status. It has also undertaken a series of consultation with the relevant States, especially with the five nuclear-weapon States, and the appropriate United Nations bodies in a search for ways and means of strengthening the country's nuclear-weapon-free status, the credibility and effectiveness of the status as well as the country's overall external security.

As a result of the consultations undertaken by Mongolia with the nuclear-weapon States, the latter have issued a joint Statement providing nuclear security assurances to Mongolia in connection with its nuclear-weapon-free status. Thus they reaffirmed their commitment to "seek immediate United Nations Security Council action to provide assistance to Mongolia, as a non-nuclear-weapon State party to the Treaty on the non-proliferation of Nuclear Weapons, in accordance with the provisions of Security Council resolution 984 /1995/ of 11 April 1995, if Mongolia should become a victim of an act of aggression or an object of a threat of aggression in which nuclear-weapons are used". They also reaffirmed, in the case of Mongolia, their respective unilateral negative security assurances, as stated in their declarations issued on 5 and 6 April 1995 and referred to in Security Council resolution 984 /1995/ of 11 April 1995 /S/1995/261-265/. Moreover, Mongolia's two immediate neighbors, the People's Republic of China and the Russian Federation, also reaffirmed their legally binding commitments with respect to Mongolia assumed on the basis of the bilateral treaties concluded with the latter.

Under the Statement, the nuclear-weapon States have also pledged their continued cooperation with Mongolia in the implementation of the provisions of General Assembly resolution 53/77D with respect to the latter's nuclear-weapon-free status. The Government of Mongolia expresses its resolve to cooperate with the above States to implement the provisions of the resolution as well as to consolidate its nuclear-weapon-free status.

The Government of Mongolia expresses its appreciation to the international community for the support its initiative. It believes that the Statement by the nuclear-weapon States represents an important step towards institutionalizing Mongolia's nuclear-weapon-free status at the international level. The Government of Mongolia reaffirms its readiness to cooperate with all the States Members of the United Nations and the relevant United Nations bodies in enhancing the effectiveness and strengthening the credibility of the status.

Ulaanbaatar, 6 October 2000

Attachment 5

Statements of other countries and international organizations

Statements from a number of countries:

- 14 November, 2000 – excerpt from joint Mongolia-Russia declaration "…20… Russia confirms that Russia will allow the idea of the P5 Joint statement concerning security assurances of Mongolia's nuclear-weapon-free status. Russian side also thanks to Mongolian side for taking the efforts to strengthening nuclear-free-weapon status and institutionalizing the status at the international level."

- 20 November, 2000- excerpt from the statement of the Representative of Japan at the session of the United Nations /UN/ General Assembly /EA/. "…The Government of Japan welcomes the efforts of the Government of Mongolia to attain nuclear-weapon-free status. …" Japan welcomes the consensus adoption of the resolution entitled "Mongolia's international security and nuclear-weapon-free-status."

- 28 October, 2002 - excerpt from the statement of the Representative of India at the UN EA "…India is pleased to see that Mongolia has taken a number of concrete measures to reinforce its nuclear-weapon-free status, including adoption of national domestic legislation. India is pleased that Mongolia has received support and security assurances from Member States, particularly those that possess nuclear weapons, for its nuclear-weapon-free status. … India fully respects the choice made by Mongolia; we are willing to respond whenever required, with every possible support to Mongolia's nuclear-weapon-free status."

- 29 April, 2004 - excerpt from the statement of the head of the Chinese delegation at the 3rd session of the Preparatory Committee for 2005 Non-Proliferation Treaty Review Conference "… China respects Mongolia's nuclear-weapon-free status and responded positively to the Mongolian proposal on concluding a treaty among China, Mongolia and Russia."

- 6 July, 2004 - excerpt from joint Mongolia-China statement "… Parties believed that Mongolia's nuclear-weapon-free status is useful for strengthening regional stability. Chinese side expressed its support for the efforts of Mongolia to secure this status."

- 15 July, 2004 - excerpt from joint Mongolia-America statement "…The United States acknowledges Mongolia's efforts to gain internationally recognized and legally binding nuclear-weapon-free status to further enhance confidence-building measures in North East Asia."

- 21 October, 2004 – excerpt from Joint statement of the President of Mongolia and Prime Minister of Canada on Expanded Partnership "…Canada expresses its full support for Mongolia's nuclear-weapon-free status and its efforts towards the institutionalization of that status."

- 9 May 2006 - excerpt from joint Mongolia-Republic of Korea declaration "...8... President Roh Moo-Hyun believes and supports the efforts of Mongolia to institutionalize at the international level its nuclear-weapon-free status as an important measure that would strengthen the non-proliferation regime and enhance confidence in North East Asia and other regions of the world."

Statements from a number of inter-governmental organizations

- 31 July 2002 – excerpt from chairman's statement at the 9th meeting of ARF "... the Ministers reiterated their support to the P5 Joint statement concerning security assurances for Mongolia and to its nuclear-free status..."

- 25 February 2003 – excerpt from final document of the XIII Conference of Heads of State or Government of the NAM, Kuala Lumpur "... Para.80 ... They reiterated their support for Mongolia's NWFS and considered that the institutionalization of that status would be an important measure towards strengthening the non-proliferation regime in that region."

- 28 April 2005 – excerpt from a political declaration adopted in Mexico conference on NWFZ "... we express our recognition and full support of Mongolia's international NWFS."

- 8 November 2005 – excerpt from Resolution CG/Res.481 of the Regular session of the General Conference of OPANAL "... to intensify the cooperation and coordination mechanisms with the Treaties of Rarotonga, Bangkok, Pelindaba, with Mongolia and with those that may be established in the future, as well as with their respective agencies, in order to speed the achievement of common objectives, as agreed at the Conference of the States Parties and Signatories of the Treaties that establish NWFZ, held in Mexico city in April 2005 and promote the consolidation of the legal regimes established by those zones; ..."

Statements from a number of international non-governmental organizations

- 9 September 2003 – excerpt from ICSF Statement on Mongolia's international security and nuclear-weapon-free status "... The Forum believes that ensuring greater security for States creates favourable conditions for their governments to focus more on promoting human rights and human security. Bearing in mind the numerous United Nations General Assembly resolutions on Mongolia's international security and nuclear-weapon-free status, as well as the political assurances provided by the five nuclear-weapon States to Mongolia in 2000, the Forum believes that these should be followed-up by the logical step in institutionalizing the status at the international level."

- 2 February 2005 – excerpt from Tokyo agenda towards creation of a regional mechanism for peace "... pursue innovative and flexible approaches to the creation of a NWFZ: Mongolia's NWFS could provide an example of a political and realistic approach to addressing nuclear issues involving individual states.

  Excerpt from the same chapter ... UN tasks: support institutionalization of Mongolia's nuclear-weapon-free status as a positive example of creation of non-traditional NWFZ and thus un-tapping to the fullest the potential of NWFZ."

- 21 August 2005 – excerpt from Hiroshima declaration adopted on the 5th Conference of IPPNW-North Asia region "... inspired by the example of Mongolia, we hereby declare our resolve to continue to work in cooperation with Mayors for Peace, to stabilize the Korean peninsula and to establish a NWFZ in Northeast Asia..."